



Amendment No. 5
To
Contract No. NA100000124
For
Credit Card Acceptance Services
Between
American Express
and the
City of Austin

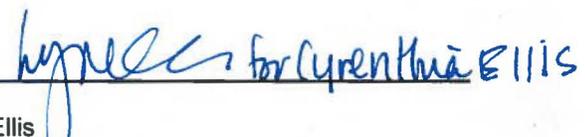
- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be February 1, 2019 through January 31, 2021. One option will remain.
- 2.0 The total contract amount is increased by \$1,050,000.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: American Express Card Acceptance Agreement with Government Entities 09/23/2010 – 09/22/2013	\$0.00	\$0.00
Amendment No. 1: Authorize this term plus two (2) thirty-six (36) month extension options, the first option for \$202,250.00, the second option for \$221,005.00 05/01/2013	\$175,089.00	\$175,089.00
Amendment No. 2: Option 1 – Early Extension 05/01/2013 – 04/31/2016	\$202,250.00	\$377,339.00
Amendment No. 3: Option 2 – Early Extension 11/01/2014 – 10/31/2017	\$221,005.00	\$598,344.00
Amendment No. 4: Authorize additional extension options. 1. Option 3 for \$800,000.00. 36 months. 2. Option 4 for \$1,050,000.00. 24 months 3. Option 5 for \$1,850,000.00. 24 months, Option 3 - Early Extension 02/01/2016 – 01/31/2019	\$800,000.00	\$1,398,344.00
Amendment No. 5: Option 4 02/01/2019 – 01/31/2021	\$1,050,000.00	\$2,448,344.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date:  12/20/18
Printed Name: ULISES SOLIS
Authorized Representative

Sign/Date: 
Cyrenthia Ellis
Procurement Manager
City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701

American Express
2600 Gracy Farms Lane, Suite 222
Austin, Texas 78758-2911
(512) 834-0582



Amendment No. 4
to
Contract No. NA100000124
for
Credit Card Acceptance Services
between
American Express
and the
City of Austin

1.0 The Contract is hereby amended as follows:

1.1 The City authorizes additional extension options for the Contract and exercises Option 3. The additional authorized extension options are:

- Option 3 - 36 months at \$800,000
- Option 4 - 24 months at \$1,050,000
- Option 5 - 24 months at \$1,850,000.

1.2 Option 3 will be effective February 1, 2016 to January 31, 2019.

2.0 The total Contract amount is increased by \$800,000. The total Contract authorization is recapped below:

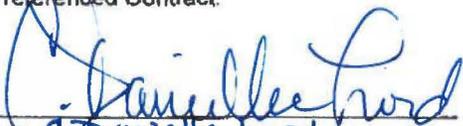
Term	Contract Amount for the Item	Total Contract Amount
American Express Card Acceptance Agreement with Government Entities	\$0.00	\$0.00
Amendment No. 1: Authorize initial term plus two 36 month extension options: Option 1 for \$202,250; Option 2 for \$221,005. 09/23/2010 – 09/22/2013	\$175,089.00	\$175,089.00
Amendment No. 2: Option 1 - Extension, early renewal. 06/01/2013 – 05/31/2016	\$202,250.00	\$377,339.00
Amendment No. 3: Option 2 - Extension, early renewal. 11/01/2014 – 10/31/2017	\$221,005.00	\$598,344.00
Amendment No. 4: Authorize additional extension options: Option 3 for \$800,000 - 36 months; Option 4 for \$1,050,000 - 24 months; Option 5 for \$1,850,000 - 24 months. Early renewal. 02/01/2016 – 01/31/2019	\$800,000.00	\$1,398,344.00

3.0 MBE/WBE goals were not established for this Contract.

4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

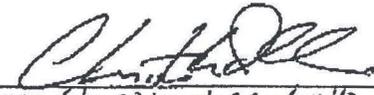
5.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above referenced Contract.

Signature: 
Printed Name: C. Danielle Lord

City of Austin
Purchasing Office

2/19/16
Date

Signature: 
Printed Name: Christopher Colli
Authorized Representative

American Express
2600 Gracy Farms Lane, Suite 222
Austin, Texas 78758

2/11/16
Date



July 29, 2010

Ms. Georgia Sanchez
City of Austin
700 Lavaca, Suite 1510
Austin, TX 78768

RE: American Express® Card Acceptance

Dear Georgia,

American Express Travel Related Services Company, Inc. ("American Express" or "we") acts as the acquirer to merchants that accept the American Express Card for the sale or provision of goods and services at such merchants. While American Express does permit third party service providers to enter into relationships with government entities that mandate payment card acceptance through a single vendor, American Express is the sole provider of merchant services to government entities that do not so mandate payment card acceptance through a single vendor.

The City of Austin acknowledges and agrees that its acceptance of the Card shall be governed by the terms and conditions of the Agreement for American Express Card Acceptance ("Master Agreement") between the State of Texas Office of Comptroller of Public Accounts ("Comptroller") and American Express and any references in the Master Agreement to "Subscriber" shall apply to the City of Austin. All capitalized terms used herein and not otherwise defined shall have the same meaning as in the Master Agreement.

As of the date of this letter, pursuant to the terms of the Master Agreement, the City of Austin's Discount Rate is 2.15%.

As of the date of this letter, pursuant to the terms of the Master Agreement, the Master Agreement will continue in full force and effect on a calendar year basis unless and until either the Comptroller or American Express provides sixty (60) days written notice of termination to the other party.

The terms set forth in this letter, including any sole source statements, are contingent upon American Express's receipt of a signed copy of this letter from the City of Austin.

Sincerely,

Paul Swanston
Manager, Account Development

Agreed to and Acknowledged by:

CITY OF AUSTIN

By: _____
Name: _____
Title: _____
Date: _____



**Establishment
Services**

October 27, 2005

Georgia Sanchez
Assistant Treasurer
City of Austin
700 Lavaca #1510
Austin, TX 78701

Ragina Ireland

American Express
Establishment Services
1861 Brown Boulevard, Suite 659
Arlington, TX 76006

Dear Georgia,

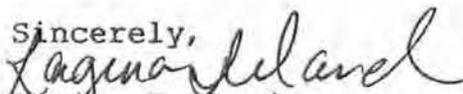
Thank you for accepting American Express as a form of payment. Per your request below are the points you requested in writing.

1. Sole Source Provider - The American Express Card system is a proprietary general purpose card system, which operates separate from the bankcard systems of Visa and MasterCard. Currently, only American Express can enter into a contract with a merchant for American Express Card acceptance in the US. There are a very small number of unique arrangements with governmental agencies where American Express is a subcontractor to an entity that is responsible for processing and settling all card transactions for the governmental agency.
2. Discount rate - The American Express discount rate for the City of Austin is 2.15%, in accordance with the State of Texas discount rate stated in the contract.
3. Contract - "Pursuant to the Section entitled Term & Termination of the Agreement...the Agreement will continue in full force and effect on a calendar year basis unless and until one party provides sixty (60) days written notice of termination to the other party."

In our view, it would be most efficient and cost effective for the City of Austin to continue its direct relationship with American Express as a sole source provider.

I look forward to continuing our relationship. Please feel free to contact me with any questions or concerns.

Sincerely,


Ragina Ireland



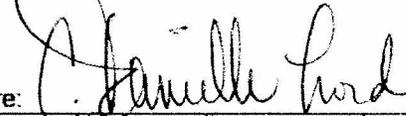
Amendment No. 3
To
Contract No. NA100000124
For
Credit Card Acceptance Services
Between
American Express
And The
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective November 1, 2014 to October 31, 2017.
- 2.0 The total Contract amount is increased by \$221,005. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
American Express Card Acceptance Agreement with Government Entities	\$0.00	\$0.00
Amendment No. 1: Authorize this term plus two (2) 36 month extension options, the first option for \$202,250; the second option for \$221,005. 09/23/2010 – 09/22/2013	\$175,089.00	\$175,089.00
Amendment No.2: Option 1 – Extension, early renewal 06/01/2013 – 05/31/2016	\$202,250.00	\$377,339.00
Amendment No. 3: Option 2 – Extension, early renewal 11/01/2014 – 10/31/17	\$221,005.00	\$598,344.00

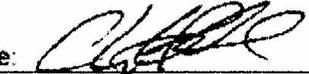
- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 All other terms and conditions remain unchanged and in full force and effect.

BY THE SIGNATURES affixed below, Amendment No. 3 is hereby incorporated into and made a part of the above-referenced Contract

Signature: 
 Printed Name: Danielle Lord

City of Austin
Purchasing Office

Date 9/25/14

Signature: 
 Printed Name: Christopher J. Lott
 Authorized Representative

American Express
2600 Gracy Farms Lane, Suite 222
Austin, Texas 78758

Date 9/22/14



Amendment No. 2
to
Contract No. NA100000124
for
Credit Card Acceptance Services
between
American Express
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective June 01, 2013 to May 31, 2016. One option remains.
- 2.0 The total contract amount is increased by \$202,250.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
American Express Card Acceptance Agreement with Government Entities	\$0.00	\$0.00
Amendment No. 1: Authorize this term plus two (2) thirty-six (36) month extension options, the first option for \$202,250, the second option for \$221,005. 09/23/2010 - 09/22/2013	\$175,089.00	\$175,089.00
Amendment No. 2: Option 1 - Extension, early renewal 05/01/2013 - 04/31/2016	\$202,250.00	\$377,339.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: 

Sign/Date: 

Printed Name: Chris Lolli, Regional RVP
Authorized Representative

Debbie DePaul
Contract Compliance Supervisor

American Express
10 South Wacker Drive, Suite 3375

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701

chris.lolli@aexp.com
800-925-6628



**Amendment No. 1
to
Contract No. NA100000124
For
Credit Card Acceptance Services
Between
American Express, Co.
and the
City of Austin, Texas**

- 1.0 The Amendment to the American Express Card Acceptance Agreement with Government Entities between the City of Austin and American Express incorporate a stated term approved by Austin City Council. This Amendment authorizes a thirty - six (36) month contract period effective September 23, 2010 for an amount not to exceed \$175,089, with two (2) thirty-six (36) month extension options in amounts not to exceed \$202,250 for the first extension option if exercised by the City and \$221,005 for the second extension option if exercised by the City.
- 2.0 All other terms and conditions of the Agreement remain unchanged and in full force and effect.

BY THE SIGNATURE affixed below, this Amendment No. 1 is hereby incorporated into and made a part of the Agreement.

Signature:

Date:

Signed:

Date:

Paul Swanston

4/12/11

Steven T. Aden 4/19/11

Printed Name:

Paul Swanston
Authorized Representative

Steven T. Aden, Corporate Purchasing
Manager

American Express
Travel Related Services Company, Inc.
2920 Majestic Oaks Pass
Austin, TX 78732

City of Austin
Financial & Administrative Services
Department
Purchasing Office
P.O. Box 1088
Austin, Texas 78767

PURCHASING OFFICE
CITY OF AUSTIN

REQUEST FOR SOLE OR SINGLE SOURCE PROCUREMENT

DATE: 07/01/2010

TO: Purchasing Officer or Designee

FROM: Georgia Sanchez

NAME:

PHONE: 512-974-7886

1. Request approval for Sole Source or Single Source Procurement of goods and/or services for the reasons as described in Section 3 herein.
2. Describe item/service to be purchased. **Merchant fees associated with City-wide acceptance of American Express as a form of payment, \$175,089 over a three-year period, American Express, 1-800-710-9429**

The American Express Card system is a proprietary general purpose card system, which operates separate from the bankcard systems of Visa and MasterCard. Currently, only American Express can enter into a contract with a merchant for American Express Card acceptance in the US.

3. Procurement is: (Check only one)

<input checked="" type="checkbox"/>	Sole Source (Complete appropriate section A – C)
<input type="checkbox"/>	Single Source (Complete Section D)

This procurement is necessary because:

Sole Source	A.	<p>There is no competitive product. The good/service is a one-of-a-kind or patented product, a copyrighted publication available from only one source or a unique item such as an artwork. <u>Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.</u></p> <p>Detail Explanation: <u>The American Express Card system is a proprietary general purpose card system, which operates separate from the bankcard systems of Visa and MasterCard. Currently, only American Express can enter into a contract with a merchant for American Express Card acceptance in the US. The American Express card is accepted as a form of payment at Austin Convention Center, Municipal Court, Parks and Recreation, Austin Water Utility, Emergency Medical Services, Aviation, Economic Growth and Redevelopment Services, Health and Human Services, and Library. Card acceptance is considered a customer service convenience to citizens, as it provides a form of payment to the City in addition to checks or cash. American Express is a widely used national card.</u></p>
	B.	<p>The product is only available from a regulated or natural monopoly. For example, utilities, gravel from the only gravel pit in the area protected site, territorial/geographical area, or some similar situation. <u>Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.</u></p> <p>Detail Explanation:</p>
	C.	<p>The product is a component of an existing system that is only available from one supplier. The replacement of a component or a repair part may only be available from the original supplier. <u>Attach a letter from vendor</u></p>

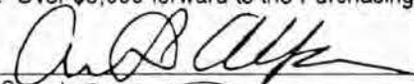
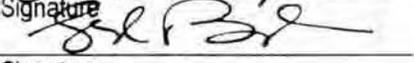
		<p><u>supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management</u></p> <p>Detail Explanation:</p>
Single	D	<p>A Single Source is the one source among others in a competitive marketplace which for specific justifiable reasons has predominant qualifications for selection for contract award.</p> <p>Detail Explanation:</p>

4.

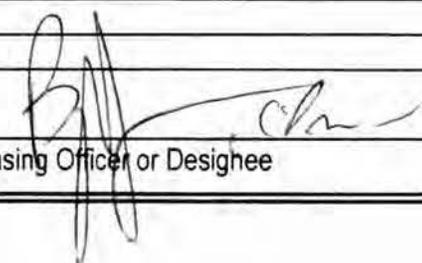
I certify that a Sole Source or Single Source Procurement exists. Over \$5,000 forward to the Purchasing Office.

Art Alfaro
 Director (printed)
 Leslie Browder, CFO
 ACM Name (printed)
 (Only if over \$50,000)

FASD: Treasury
 Department


 Signature

 Signature

07/01/2010
 Date
 07/01/2010
 Date

Purchasing Office (Over \$5,000):	
<input checked="" type="checkbox"/> Concur	<input type="checkbox"/> Do Not Concur
	
Purchasing Officer or Designee	Date



**Establishment
Services**

Ragina Ireland

American Express
Establishment Services
1861 Brown Boulevard, Suite 659
Arlington, TX 76006

October 27, 2005

Georgia Sanchez
Assistant Treasurer
City of Austin
700 Lavaca #1510
Austin, TX 78701

Dear Georgia,

Thank you for accepting American Express as a form of payment. Per your request below are the points you requested in writing.

1. Sole Source Provider - The American Express Card system is a proprietary general purpose card system, which operates separate from the bankcard systems of Visa and MasterCard. Currently, only American Express can enter into a contract with a merchant for American Express Card acceptance in the US. There are a very small number of unique arrangements with governmental agencies where American Express is a subcontractor to an entity that is responsible for processing and settling all card transactions for the governmental agency.
2. Discount rate - The American Express discount rate for the City of Austin is 2.15%, in accordance with the State of Texas discount rate stated in the contract.
3. Contract - "Pursuant to the Section entitled Term & Termination of the Agreement...the Agreement will continue in full force and effect on a calendar year basis unless and until one party provides sixty (60) days written notice of termination to the other party."

In our view, it would be most efficient and cost effective for the City of Austin to continue its direct relationship with American Express as a sole source provider.

I look forward to continuing our relationship. Please feel free to contact me with any questions or concerns.

Sincerely,

Ragina Ireland



July 29, 2010

Ms. Georgia Sanchez
City of Austin
700 Lavaca, Suite 1510
Austin, TX 78768

RE: American Express® Card Acceptance

Dear Georgia,

American Express Travel Related Services Company, Inc. ("American Express" or "we") acts as the acquirer to merchants that accept the American Express Card for the sale or provision of goods and services at such merchants. While American Express does permit third party service providers to enter into relationships with government entities that mandate payment card acceptance through a single vendor, American Express is the sole provider of merchant services to government entities that do not so mandate payment card acceptance through a single vendor.

The City of Austin acknowledges and agrees that its acceptance of the Card shall be governed by the terms and conditions of the Agreement for American Express Card Acceptance ("Master Agreement") between the State of Texas Office of Comptroller of Public Accounts ("Comptroller") and American Express and any references in the Master Agreement to "Subscriber" shall apply to the City of Austin. All capitalized terms used herein and not otherwise defined shall have the same meaning as in the Master Agreement.

As of the date of this letter, pursuant to the terms of the Master Agreement, the City of Austin's Discount Rate is 2.15%.

As of the date of this letter, pursuant to the terms of the Master Agreement, the Master Agreement will continue in full force and effect on a calendar year basis unless and until either the Comptroller or American Express provides sixty (60) days written notice of termination to the other party.

The terms set forth in this letter, including any sole source statements, are contingent upon American Express's receipt of a signed copy of this letter from the City of Austin.

Sincerely,

Paul Swanston
Manager, Account Development

Agreed to and Acknowledged by:

CITY OF AUSTIN

By: _____
Name: _____
Title: _____
Date: _____



Establishment Services

-478

American Express® Card Acceptance Agreement with Government Entities

Belina Ewin

This Shaded Box Will Be Completed By An American Express Representative.

<input type="checkbox"/> New Signing <input type="checkbox"/> Update	<input type="checkbox"/> S/E <input checked="" type="checkbox"/> GAP	<input type="checkbox"/> MAP	Discount Rate EDC <u>2.15</u> %	Origin Code _____
SE #1 _____	Industry Code 1 _____	Special Program(s), e.g., No Signature, Assured Reservation, Fraud Full Recourse: _____	Paper _____ %	Sales # _____
			Pay Frequency (3/15/30 days) _____	X-Ref 1 _____
				Affil. Code _____ Affiliation _____
SE #2 _____	Industry Code 2 _____	Special Program(s), e.g., No Signature, Assured Reservation, Fraud Full Recourse: _____	Discount Rate EDC _____ %	X-Ref 2 _____
			Paper _____ %	Affil. Code _____
			Pay Frequency (3/15/30 days) _____	Est. Volume \$ (AMEX Annual) _____
				Estimated Average Ticket \$ _____
SE #3 _____	Industry Code 3 _____	Special Program(s), e.g., No Signature, Assured Reservation, Fraud Full Recourse: _____	Discount Rate EDC _____ %	Card Not Present % _____
			Paper _____ %	Daily Gross Pay _____
			Pay Frequency (3/15/30 days) _____	Monthly Gross Pay _____
				Pay Option _____

What Is Your Name & Address? Please Complete The Following. If You Have Any Questions Call your American Express Representative.

FULL LEGAL NAME of Government Entity <u>City of Austin</u>	Phone Number <u>512-974-7884</u>
Doing Business As (DBA, Trade Name) _____	Fax Number <u>512-370-3838</u>
Address <u>TOD LAVA CA</u>	
City _____	State <u>TX</u>
	Zip <u>78702</u>
URL/Website Address <u>www.ci.austin.tx.us</u>	
E-mail Address <u>marion.raley@ci.austin.tx.us</u>	
SIC Code(s) _____	What Products and/or Services Do You Sell? _____
_____	If Seasonal Business, Open: From _____ To _____

DUNS # _____	Fed Tax ID # _____

Authorized Signer Information

Name: Marion Raley Title: Assistant Treasurer

Have You Previously Had An American Express Merchant Account #: Yes No If Yes, Merchant #: _____

By signing below, I represent that I have read this Agreement (which includes these two Application and Set Up pages and the Terms and Conditions for American Express® Card Acceptance in the following pages) and that the government entity indicated above agrees to be bound by this Agreement. This Agreement becomes effective upon approval of such government entity to accept the American Express® Card by American Express (as defined herein).

Please Sign Here X Marion Raley Date: _____

The terms and conditions found below apply to your acceptance of American Express® Cards. The words *we*, *our* and *us* mean American Express Travel Related Services Company, Inc. *You* and *your* mean the government entity accepting the Card hereunder. *American Express Card(s)* or *Card(s)* shall mean any card or other account access device issued by American Express Travel Related Services Company, Inc., or its subsidiaries or affiliates or its or their licensees bearing the American Express name or an American Express trademark, service mark or logo. *Cardmember* means the person whose name is embossed on the face of the Card. Payments or purchases made with the Card are *Charges*.

You agree to accept the Card under the terms of this Agreement at all of your locations in the United States and its territories in payment for all goods and services sold and all other payments due to you (except as noted herein). This includes payments made to you and sales made in person, by telephone, by mail, through the Internet or by any other method. Each location, website, online network and any other method of conducting sales or receiving payments is a *Location(s)*.

By accepting Cards for the purchase of goods and/or services, and/or other payments due to you, you agree to be bound by this Agreement. If you do not wish to accept the terms of this Agreement, you must not submit Charges and you must notify us immediately and return all materials we provided to you. You further agree to comply with, and be bound by, our policies and procedures, as such may be amended from time to time.

TREATMENT OF CARDS

You agree to accept the Card in accordance with this Agreement for all payments to you and/or purchases of goods or services from you. You agree to treat Cardmembers wishing to use the Card the same as all other customers seeking to use any other charge, credit, debit or smart card or similar card, service or payment product. You agree not to impose any special restrictions or conditions on the use or acceptance of the Card that are not imposed equally on the use or acceptance of other cards. You will not, directly or indirectly, state or publish or otherwise indicate a preference for any charge, credit, debit or smart card or other card, service or payment product over the Card, or participate in a program with a third party which so states or publishes or otherwise indicates such a preference. You shall not promote the use of any other charge, credit, debit or smart card or similar card, service or payment product (except for your own card that is issued solely by you and is usable only at your Locations) more actively than you promote the use of the Card.

Wherever you indicate the payment methods that you accept, you agree to display or otherwise exhibit the words "American Express® Card," the American Express logo or icon and other identification logos (as permitted under this

Agreement), as prominently and in the same manner as for other payment methods, including payments made by other charge, credit, debit or smart card or similar card, service or payment product. Your indication of payment methods includes, but is not limited to, any electronic, printed or audio format, and on your website payment page.

You agree to display our "Take-One" containers filled with Card application forms. You will receive a \$3.00 commission when we open a new Card account based upon a Card application from your Location.

DISCOUNT

The *Discount* is the amount we charge you for accepting the Card. The *Discount Rate* shall be a percentage of the face amount of Charges you submit. The initial Discount Rate is indicated in this Agreement or otherwise provided to you in writing by us. We have the right to adjust the Discount Rate at any time. Additionally, Charges authorized and submitted to us electronically shall have a different Discount Rate than Charges submitted to us via paper.

If you wish to accept the American Express® Corporate Purchasing Card and meet our data requirements for American Express Corporate Purchasing Card transactions, as set out under the section "Completing Charge Records", you will be charged two different Discount Rates: one for Corporate Purchasing Card Charges and another for other American Express Card Charges.

PAYMENT

We will pay you in United States Dollars for the face amount of Charges you submit, minus: 1) the amount calculated using the Discount Rate; 2) any amounts you owe us; 3) any amounts for which we have Full Recourse; and 4) any Credits you submit. We will send payment to you in accordance with your payment plan. You are not permitted to receive payment on behalf of any other entity.

Alternatively, you may elect one of two other methods for paying us the Discount in which the Discount will not be deducted from the face amount of the Charges you submit. With the first option, we will debit your Account for the aggregate Discount with respect to all of that month's Charges. With the second option, at the time of each of our payments to you for Charges submitted, there will be a separate debit to your Account for the Discount related to such Charges. In both cases, when we pay you for the face amount of Charges you submit, we will deduct any Credits you submit and we will debit your Account for any amounts you owe us and any amounts for which we have Full Recourse. In order to be eligible for either option, you must: 1) submit all Charges to us electronically; 2) receive all payments electronically via the Automated Clearinghouse of the Federal Reserve System (ACH); and 3) be paid on the Basic Payment Plan.

Payment Method

You must participate in our Electronic Pay Program (*Electronic Pay*) unless:

- You do not have a bank account and cannot get one; or
- Your bank does not have access to the Federal Reserve System to receive ACH transactions.

Payments will be sent electronically via ACH to the demand deposit account you designate (*Account*) at a domestic bank (*Bank*) that participates in ACH. Unless otherwise mutually agreed, we will initiate payment via ACH within three (3) calendar days of receiving and processing Charges. If your payment date falls on a day that our bank is not open for processing ACH payments, we will initiate payment on the next day our bank is open for processing such ACH payments. You must provide us with information about your Account and your Bank, and you must notify your Bank that we may have access to the Account for debiting and crediting the Account. We will not be responsible for any obligations, damages or liabilities over and above the amount of the applicable debit, credit or adjustment to your Account in the event that any such debit, credit or adjustment is not honored by your Bank or is improperly applied to your Account.

There is an additional fee for participation in Electronic Pay of 0.15% of the face amount of Charges you submit. However, if you obtain Authorization for Charges electronically and transmit Charges to us electronically, you will not be charged the additional fee for participation in Electronic Pay.

Payment Plans

There are three (3) payment alternatives as described below:

Basic Payment Plan: Payment is sent within **three (3) calendar days** (excluding Sundays and Federal Reserve Holidays) after we receive and process Charges.

Economy Payment Plan: Payment is sent **fifteen (15) calendar days** after we receive and process Charges.

Extended Payment Plan: Payment is sent **thirty (30) calendar days** after we receive and process Charges.

If you are paid by check, we will charge a processing fee of ninety-five cents (\$0.95) per check.

CARD ACCEPTANCE PROCEDURES

Procedures for Card acceptance are set forth below. You must comply with any changes in these procedures of which we notify you.

Completing Charge Records

For every Charge, you must create or complete either a

paper or electronically reproducible record of Charge (*Charge Record*) containing: 1) the Card account number and expiration date via an imprinter, Card swipe device or data entry device; 2) the date the Charge was incurred; 3) the amount of the Charge (which must be the total purchase price of the goods or services purchased or amounts owed to you plus applicable taxes); 4) the Authorization approval code number; 5) a mutually acceptable description of the goods or services purchased or amounts owed to you; 6) an imprint or other registration of your name, address and the Location Number we assigned; 7) the Cardmember's signature; and 8) the words "No Refunds" if you have a no refund policy.

For Corporate Purchasing Card transactions, you must create or complete a Charge Record that also includes the amount and sales tax separately and, if applicable, the following information: 1) ship-to-zip code; 2) Corporate Purchasing Cardmember reference information; and 3) Corporate Cardmember employer's name. We reserve the right to modify these data requirements at any time. If you do not meet these data requirements, you will be charged a single Discount Rate for all American Express Card Charges in accordance with the terms of this Agreement and will not receive the Corporate Purchasing Card Discount Rate.

Card Present Charges

A *Card Present Charge* is a Charge in which the Card is present at the point of purchase.

For Card Present Charges, you must:

- Verify that the Card is not visibly altered or mutilated;
- Ensure that the Card is being used within the valid dates shown on the face of the Card;
- Verify that the Card is signed in the same name as the name embossed on the front of the Card;
- Create a Charge Record as described in this Agreement and verify that the Cardmember's signature on the Charge Record matches the signature on the back of the Card; and
- Obtain Authorization as described in this Agreement.

Card Not Present Charges

For all other Charges in which the Card is not present at the point of purchase, such as those Charges made by mail, telephone, Internet Order (as defined below) or at unattended Locations, you must:

- Create a Charge Record as described below, except with the words "Mail Order," "Telephone Order," "Internet Order" or "Signature on File," as applicable, on the Cardmember signature line; and

- Obtain Authorization as described in this Agreement.

For the purposes of this Agreement, the term *Internet* shall include online services, the worldwide web and other similar networks. An *Internet Order* occurs when Card payment information is taken online, usually via a website payment page, email or other online network for payment for goods or services and/or payments due to you. Transactions in which goods or services are ordered online and physically delivered offline (e.g., clothing) are referred to as *Internet Physical Delivery Transactions*. Transactions in which goods or services are ordered online and electronically delivered online (e.g., images, software) are referred to as *Internet Electronic Delivery Transactions*. In the event that a Disputed Charge arises involving a Charge that is an Internet Electronic Delivery Transaction, we shall exercise Full Recourse immediately without first sending you an inquiry.

If the Cardmember denies making or authorizing a Charge and you have not obtained the Cardmember's signature for such Charge, we will have Full Recourse for such Charge. We will not have Full Recourse for such a Charge based upon a claim that the goods were not received if you have: 1) verified with us that the address to which the goods were shipped is the Cardmember's billing address; and 2) obtained a receipt signed by an authorized signer verifying the delivery of the goods to such address.

Automated Address Verification

Automated Address Verification (AAV) is a service that compares your customer's address with the Cardmember's billing address. This service is available solely for American Express Card transactions and is most useful in the Telephone Order, Mail Order and Internet Order environments. If you desire to utilize AAV you must notify us and conform to our specifications as defined in our Credit Authorization Guide. You understand and acknowledge that AAV is merely intended as an additional method by which you may reduce the amount of fraudulent Charges incurred at your Location(s). We reserve all rights to Full Recourse under this Agreement for Charges you submit to us whether or not AAV has been received for such Charges.

Authorization

You must obtain an authorization approval code number from us (*Authorization*) for all Charges, regardless of the amount of the Charge and except as otherwise expressly provided herein. Each Authorization request must be for the total price of the goods or services purchased or amounts owed to you plus applicable taxes (if any). Authorization provides verification that the Cardmember is creditworthy at the time of purchase; it is not a guarantee that we will accept the Charge without Full Recourse, nor is it a guarantee that the person making the Charge is the Cardmember. You are not permitted to obtain Authorization on behalf of any other entity.

If you are processing Charges electronically for a transaction in which the Card is present at the point of purchase,

you will transmit full magnetic stripe data with your Authorization request via a swipe of the Card through your electronic authorization terminal. If the magnetic stripe is unreadable and you have to key the transaction to obtain an Authorization, you must take a manual imprint of the Card to validate Card presence. If you fail to take a manual imprint for any keyed transaction, we will have the right to Full Recourse for such Charge.

If your electronic authorization terminal is unable to reach our computer authorization system for Authorization, or you do not have such a terminal, you agree to obtain Authorization for all Charges by calling us at our authorization telephone number. You shall be charged sixty-five cents (\$0.65) for each Charge for which you request Authorization by telephone. We retain the right to change the amount we charge to you for requesting Authorization by telephone at any time.

For Charges for goods or services which are shipped or provided more than thirty (30) days after the order is made, you must obtain Authorization for each such Charge at the time the order is made and again immediately before you ship the goods or provide the services to the Cardmember.

Credits

When you give a refund for a Charge, you must credit that Card account (*Credit*). You must create a record of Credit (*Credit Record*) and submit the Credit Record to us within seven (7) calendar days of determining the Credit is due. We will deduct the amount of the Credit, minus the applicable Discount, from your payment. If we are unable to deduct such amount, you must pay us promptly upon receipt of our invoice. You will issue Credits only for Charges made with the Card. You must not give cash refunds for Charges made on the Card.

Refunds

Your refund policy for Charges must be at least as favorable as your refund policy for purchases or payments made with other forms of payment. You must disclose your refund policy to Cardmembers at the time of the purchase and in a manner that complies with applicable law.

Submission and Acceptance of Charges and Credits

You shall submit all Charges to us within seven (7) calendar days of the date they are incurred; provided, however, that you shall not submit any Charge until the goods or services purchased have been delivered to the Cardmember. You must submit Credits as described above. Charges and Credits will be deemed accepted on a given business day if received and processed before our close of business for that day at the location we designate.

When you submit Charges and Credits you agree to do so electronically over communications lines (*Transmission*). Even if you transmit Charges and Credits electronically, you still must complete and retain Charge Records and Credit

Records. Transmissions must comply with the specifications we provide and must include a description of the goods or services purchased or payment made which is acceptable to us. For Charges made via the Internet, you shall conform with any additional requirements we may have. At our request you shall place additional, less or differently formatted information on Transmissions. We are not obligated to accept any Transmission that does not comply with our requirements.

In the event you submit Charges and Credits on paper, you must submit Charge Records and Credit Records approved by us in accordance with the instructions we provide.

You warrant that all indebtedness arising from Charges that you submit is genuine and free of any liens, claims or encumbrances. You acknowledge that you have no right to bill and/or collect from any Cardmember for any purchase made with the Card unless we have exercised Full Recourse with respect to a particular Charge and you otherwise have the legal right to do so. You are not permitted to submit Charges on behalf of any other entity.

Document Retention

For each Charge and Credit you must retain the original Charge Record or Credit Record and all documents evidencing such transactions, or reproducible records thereof, for twenty-four (24) months from the date you submitted the Charge or the Credit to us. You must provide a copy of the Charge Record or Credit Record and other supporting documents to us within twenty (20) calendar days of our request. We shall have Full Recourse for any Charges with respect to which you have not provided the requested documentation within this time period.

Processors

You may retain, at your expense, a third party approved by us (*Processor*) for obtaining Authorizations and/or submitting Charges and Credits. You, and not we, are responsible for any errors, omissions, delays or expenses caused by your Processor. You must provide us with all information we request about your Processor and you must notify us promptly in writing if you change your Processor.

Recurring Billing

If you offer automatic/recurring billing for a series of separate purchases, you must obtain the consent of the Cardmember authorizing you to charge his/her Card account for the same or different amounts at specified or different times (*Recurring Billing Charges*). You must obtain such consent before submitting the first Recurring Billing Charge and the Cardmember should be aware that he/she is able to discontinue Recurring Billing Charges at any time. You must retain evidence of such consent for twenty-four (24) months from the date you submit the last Recurring Billing Charge. Before submitting each Recurring Billing Charge, you must obtain Authorization and create a Charge Record with the words

"Signature on File", if applicable, on the Cardmember signature line.

FULL RECOURSE

Full Recourse means our right to payment from you for the full amount of each Charge subject to such right. We may deduct, recoup and offset such amount from payments to you or you shall pay us promptly upon receipt of our invoice. We shall have Full Recourse with respect to a Charge if you do not comply with the terms of this Agreement, even if we had notice when we paid you for that Charge that you did not so comply and even if you obtained Authorization for the Charge in question. We will also have Full Recourse as provided elsewhere in this Agreement.

DISPUTED CHARGES

If we contact you regarding a claim, complaint or question about any Charge (*Disputed Charge*) or notify you that we have exercised our right to Full Recourse on a Disputed Charge (by resolving that Disputed Charge in favor of the Cardmember based on a determination by us that we have obtained sufficient information to resolve such Disputed Charge), then you shall have up to twenty (20) calendar days after we contact you to provide a written response to us. We will have Full Recourse for the amount of each such Disputed Charge or retain our previous decision to exercise Full Recourse for such Disputed Charge if, by the end of that time period, you have not provided us with a written substantive response to our inquiry that addresses all aspects of the Cardmember's claim, complaint or question and includes all documentation you do have or should have relating to the Disputed Charge which enables us to resolve the dispute.

If a Cardmember, despite your reply, continues to withhold payment for such Disputed Charge, we will make a final determination as to whether the Disputed Charge should be resolved in favor of the Cardmember or you.

We shall have rights relating to Disputed Charges as provided elsewhere in this Agreement.

PROHIBITED TRANSACTIONS

You may not accept the Card for:

- Costs or fees that are beyond the normal price (plus applicable taxes) for the goods or services provided, or amounts for which the Cardmember has not specifically authorized payment by the Card;
- Gambling services (including, but not limited to, online gambling), gambling chips or gambling credits;
- Cash;
- Goods which will be resold (unless specifically allowed in accordance with this Agreement);

- Sales made under a different trade name or business affiliation than those indicated in this Agreement or otherwise approved by us in writing;

• Sales by third parties;

- Amounts which do not represent a *bona fide* sale of goods or services at your Location(s) unless such payments are authorized by applicable law; or

- Illegal business transactions.

CONFIDENTIALITY

You shall keep confidential any information you receive from us that is not publicly available and the terms and conditions of this Agreement, including without limitation your Discount Rate.

You agree that the names, addresses and account numbers of Cardmembers are confidential and our sole and exclusive property. You must not use or disclose a Cardmember's name, address or account number, except as provided in this Agreement.

TRADEMARKS AND SERVICE MARKS

This Agreement does not give either party any rights in the other party's name, logo, service marks, trademarks, trade names, taglines or any other proprietary designation (*Marks*). No use may be made of either party's Marks without the prior written permission of that party. Where you mention the Card as a payment method you must use our Marks, but only as described in our logo sheets. You agree that we may list the name and address of you and your Location(s) including, but not limited to your website address and/or URL (if applicable) and contact telephone number, in materials containing lists of Locations that accept the Card which we may publish from time to time.

NOTICES

Unless otherwise notified, you will send all notices to:

American Express
Travel Related Services Company, Inc.
P.O. Box 53773
Phoenix, AZ 85072
Attn: SE Maintenance Unit

INDEMNIFICATION/LIMITATION OF LIABILITY

Except if prohibited by applicable law, you shall indemnify and hold harmless us, our parent, subsidiaries, affiliates, licensees, successors and assigns from and against all damages, losses and expenses including, but not limited to, reasonable attorneys' fees and costs arising or alleged to have arisen out of: 1) any goods or services you sell; 2) the marketing of any goods or services you sell; 3) the negligent or wrongful performance of, or failure to perform, by you,

your agents and/or employees, any duties or obligations under this Agreement; 4) the violation or alleged violation by you, your agents and/or employees of any laws, regulations or rulings applicable to you; and/or 5) your breach of this Agreement.

Except as expressly stated herein, in no event will you or we be responsible or liable for any incidental, indirect, speculative, consequential, special, punitive or exemplary damages of any kind arising from this Agreement. The foregoing limitation shall not apply to damages arising from a claim made against either party by a third party due to the other party's actions. Neither you nor we shall be responsible hereunder for damages arising from delays or problems caused by any telecommunications carrier or banking system; provided, however, that the foregoing shall have no effect upon our rights regarding the creation of a reserve or our rights to Full Recourse pursuant to this Agreement.

TERMINATING THIS AGREEMENT

Either party can terminate this Agreement at any time by sending written notice to the other party. The termination will be effective on the third business day after such notice is sent.

Except as expressly stated herein, in the event that you display, state, publish or otherwise indicate a preference for any other charge, credit, debit or smart card or similar card, service or payment product over the Card, and in addition to any and all other rights and remedies we may have under this Agreement and/or in law or in equity, we shall have the right to immediately terminate this Agreement upon our sending a written notice of such termination to you.

In the event that you have not submitted a Charge within any period of twelve (12) consecutive months, due to your failure to accept the Card for such period of time, we may terminate this Agreement at any time without notice to you.

You agree that this Agreement is a contract to extend financial accommodations and that if insolvency proceedings or similar proceedings are filed with respect to your government entity, this Agreement is automatically terminated. You must notify us immediately if any of the above events occur.

Upon termination, you must: 1) remove all American Express identification and return our materials and equipment immediately; 2) submit any Charges incurred prior to the termination in accordance with this Agreement; and 3) submit any Credits relating to these Charges in accordance with this Agreement. The sections entitled "FULL RECOURSE," "DISPUTED CHARGES," "CONFIDENTIALITY," "INDEMNIFICATION/LIMITATION OF LIABILITY" and "TERMINATING THIS AGREEMENT" shall survive termination of this Agreement.

COMPLIANCE WITH LAWS

You and we agree to comply with all applicable laws, regulations and rules.

HEADINGS

The headings in this Agreement are for purposes of reference only and shall not in any way limit or affect the meaning or interpretation of any of the provisions of this Agreement.

ASSIGNMENT

You may not assign this Agreement. We may assign this Agreement to our parent, subsidiaries or affiliates.

NO WAIVER

Failure to enforce any term or condition of this Agreement shall not be a waiver of the right to later enforce such term or condition or any other term or condition of this Agreement.

CHANGING THIS AGREEMENT

We have the right to change this Agreement at any time. We will notify you in writing of any change in writing at least ten (10) calendar days in advance. If the changes are unacceptable to you, you may terminate this Agreement as described in the section entitled "TERMINATING THIS AGREEMENT."

ENTIRE AGREEMENT

This Agreement is the entire agreement with respect to the subject matter hereof and supersedes any previous agreement with respect to the subject matter hereof.

VERIFICATION OF INFORMATION

You represent and warrant that all statements contained in this Agreement and such other information you provide to us in connection with this Agreement are true, complete and correct.

PROVISIONS APPLICABLE TO SPECIFIC INDUSTRIES

If you are engaged in any of the following industries you must comply with the following applicable provisions:

1. WHOLESALE DISTRIBUTION

You represent that: 1) your primary Standard Industrial Classification (*SIC*) is that of a wholesale business; 2) at least eighty percent (80%) of your annual sales are transactions involving goods or services which will be resold; and 3) you are not in the oil or telecommunications industries. As such, the prohibition against acceptance of the Card for goods which will be resold under "PROHIBITED TRANSACTIONS" shall not apply. When you submit Charges to us, the Charge Records, in addition to our other requirements, shall set forth the quantity of product(s) or service(s) sold to the Cardmember. We will exercise Full Recourse immediately for all Charges involving actual or alleged fraud, without first sending you an inquiry.

2. LODGING

When a Cardmember wishes to use the Card to pay for a lodging stay, at the time of check-in you will obtain Authorization for the full estimated amount of the Charge based upon the room rate and the number of days that the Cardmember expects to stay, plus taxes and other known ancillary amounts (*Estimated Lodging Charge*). You shall not overestimate this amount. If you fail to obtain such Authorization for the Estimated Lodging Charge and submit the Charge, and the Cardmember fails to pay the Charge for any reason, we shall have Full Recourse for the full amount of the Charge. Upon check-out: 1) if the final Charge is no greater than the Estimated Lodging Charge plus 15% of the Estimated Lodging Charge, no further Authorization is necessary; or 2) if the final Charge is greater than the Estimated Lodging Charge by more than 15%, you will obtain Authorization for any additional amount of the Charge that is greater than the Estimated Lodging Charge. If you fail to obtain such Authorization for the additional amount, or request Authorization for the additional amount but Authorization is declined, and the Cardmember fails to pay the Charge for any reason, we will have Full Recourse for the amount of the Charge in excess of the Estimated Lodging Charge for which you already have obtained Authorization.

Assured Reservations

If you have elected to participate in the Assured Reservations program, you must accept the Card to reserve accommodations until the published check-out time on the day following the scheduled arrival date (*Assured Reservations*). For each Assured Reservation, you must confirm the reservation and record the Cardmember's name, address, Card account number and expiration date.

When accepting an Assured Reservation, you must advise the Cardmember that, if the Cardmember does not claim the Assured Reservation, or cancel it within the time specified in your stated cancellation policy, the Cardmember may be charged for one night's lodging plus applicable taxes. If the Cardmember does not claim or cancel the Assured Reservation, and you decide to charge the one night's lodging, you must submit a completed Charge Record with the words "Assured Reservations - No Show" on the Cardmember signature line or transmit the appropriate no-show description on the Charge Data. If the Cardmember cancels, you must provide the Cardmember with a cancellation number and maintain a record of such cancellation number and the date provided.

Failure by you to comply with the above requirements will result in our exercising our right to Full Recourse if the no-show Charge is disputed by the Cardmember.

If you do not honor an Assured Reservation, you must: 1) pay for a one night stay at comparable accommodations nearby; 2) pay for transportation to the alternate location; 3) pay for a three minute telephone call, if requested by the Cardmember; and 4) forward all communications for the

Cardmember to the alternate location.

If your cancellation policies and practices result in a disproportionate number of disputes with respect to no-show charges, you agree to cooperate with us in efforts to reduce the number of such disputes. In the event that such efforts fail to reduce the number of such disputes, we reserve the right to exercise our right to Full Recourse immediately for all such disputes without first sending you an inquiry.

CARDeposit®

If you have elected to participate in the CARDeposit® program, to the extent you require room deposits you must accept the Card for payment of these deposits (*CARDeposits*). Only Cardmembers with a billing address in the United States, Canada, Puerto Rico or the U.S. Virgin Islands may use the Card for the payment of CARDeposits. A CARDeposit may not exceed the cost of a fourteen (14) night stay plus applicable taxes.

For each CARDeposit, you must complete a Charge Record except with the word "CARDeposit" on the Cardmember signature line. You must also indicate on the Charge Record the scheduled arrival date. Within three (3) business days from the date of the CARDeposit Charge you must send the Cardmember written confirmation of the arrival and departure dates, the amount of the CARDeposit, a confirmation number and the cancellation policy.

If a CARDeposit is canceled, you must send a written cancellation notice showing the cancellation number to the Cardmember within three (3) business days. If a refund is due, you must submit a Credit Record with the words "CARDeposit Cancellation" on the Cardmember signature line.

If an arrival date of a CARDeposit is changed, you will send the Cardmember a written confirmation of the change within three (3) business days.

Upon arrival the Cardmember must show the Card. If the Cardmember does not have the Card, other identification must be shown.

If you do not honor a CARDeposit you must: 1) issue a Credit for the CARDeposit; 2) pay for comparable accommodations nearby for the duration of the original reservation (not to exceed 14 nights) or until the original location accommodations are available, whichever occurs first; 3) pay for the Cardmember's transportation to the alternate location and for a return to the original location once each day until the original accommodations are available; and 4) pay for two three-minute telephone calls for the Cardmember to inform of the alternate location and to advise of being moved to the original location.

Emergency Check-In

If a Cardmember whose Card is lost or stolen requests

check-in, you must call our toll-free authorization number, ask for an "Authorizer," request Authorization for an "Emergency Check-In" and follow the Authorizer's Instructions. You may then submit a Charge Record for the approved amount with the words "Emergency Check-In" under the Cardmember's signature.

Check Cashing

You must cash personal checks up to \$250 per stay for Cardmembers who are paying for their stay with the Card, subject to cash availability. We will reimburse you for checks which are returned to you unpaid if you have followed our instructions.

Promotional Materials

You must display prominently American Express signs, decals or other identification, including our "Take-One" containers filled with Card application forms, in all high traffic areas, such as front desks, cashiers' locations and restaurants. You must also put our "In-Room" applications on desk tops in at least 90% of your rooms.

3. QUICK SERVICE RESTAURANTS/ PARKING LOTS/MOVIE THEATERS

In our discretion: 1) we may not require you to obtain the Cardmember's signature for Charges, provided that we shall immediately exercise Full Recourse without first sending you an inquiry for Disputed Charges involving actual or alleged fraud; or 2) we will not exercise Full Recourse for Disputed Charges involving actual or alleged fraud where you have obtained Authorization electronically, provided that we shall have the right to add an additional 0.25% to your Discount Rate.

4. MOTOR VEHICLE SALES

We will accept Charges for the down payment or the entire purchase price of new and used motor vehicles only if: 1) the amount of the Charge does not exceed the total price of the motor vehicle after applicable discounts, rebates, cash down payments and trade-in values have been deducted; and 2) you obtain Authorization for the entire amount of the Charge. If the Cardmember denies making or authorizing the Charge and you have not transferred title or physical possession of the motor vehicle to the Cardmember, we will have Full Recourse for such Charge. If within ninety (90) days after delivery of the motor vehicle, the Cardmember refuses to pay us due to a dispute regarding the quality of the motor vehicle, we will have Full Recourse for the Charge. We will not exercise our rights of Full Recourse until the Cardmember has returned the motor vehicle to you.

5. PARKING/TAXIS

When the number of parking days is agreed upon when the Cardmember leaves the motor vehicle with you, you must submit the Charge immediately.

When you provide a parking pass valid for a predetermined number of parking days, you must submit the Charge immediately.

When the number of parking days is not known when the Cardmember leaves the motor vehicle with you, you must not submit the Charge until the last day of parking.

6. CHARITABLE DONATIONS

You represent that you are a non-profit organization incorporated or registered as such under applicable law and recognized by the U.S. Internal Revenue Service (*IRS*) as an entity qualifying for tax exemption under Section 501 of the *IRS Code (Code)*. You may accept the Card only for charitable donations: 1) which are 100% tax-deductible to the payor as a charitable contribution under the Code; or 2) which include the receipt of an item or service of value (such as a meal or admission to an event or other incentive) where at least 75% of the amount is tax-deductible to the payor as a charitable contribution under the *IRS Code*.

AUTHORITY TO SIGN

You represent that the individual who signs and/or enters into this Agreement has authority to sign and/or to enter into this Agreement and to bind you to the terms of this Agreement. You further represent that you have read it and kept a copy for your file.

AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.

By 

Stephen J. Squeri
President, Canada & U.S.
Establishment Services

**AGREEMENT FOR AMERICAN EXPRESS® CARD ACCEPTANCE
STATE OF TEXAS MASTER AGREEMENT**

This agreement (*Agreement*) applies to acceptance of American Express® Cards. The words *Contractor and American Express* mean American Express Travel Related Services Company, Inc. and its subsidiaries, affiliates and licensees that issue Cards. *Subscriber(s)* mean the State of Texas governmental entities that sign the Subscription Agreement for American Express® Card Acceptance in the form found attached hereto in the Subscription Addendum which is incorporated herein by reference. *Comptroller* means the State of Texas Office of Comptroller of Public Accounts that is responsible for the negotiation of this Agreement and certain other responsibilities on behalf of the Subscribers as outlined in this Agreement. *American Express Card and Card* mean any card or account access issued by American Express Travel Related Services Company, Inc. or its or affiliates or its or their licensees, bearing the American Express name or an American Express trademark, service mark or logo. *Cardmember* means the person whose name is embossed on the face of the Card. Payments or purchases made with the Card are *Charges*.

Subscriber shall accept the Card under the terms of this Agreement at all of Subscriber's locations in payment for all goods and services sold for which Subscriber accepts any other charge, credit, debit and/or smart card (to the extent allowed by applicable law and except as noted below). This includes payments or purchases made in person, by telephone, by mail, via the Internet or by any other method. Each location or method of collecting payments is a *Location*.

PROCESSORS

Comptroller may retain, at its expense, a third party approved by Contractor (*Processor*) for obtaining Authorizations and/or submitting Charge Data on behalf of Subscribers. Comptroller, and not American Express, is responsible for any errors, omissions, delays or expenses caused by its Processor. Comptroller shall provide Contractor with all relevant information (to the extent allowed by applicable law) that Contractor requests about Comptroller's Processor and Comptroller shall notify Contractor promptly in writing if Comptroller changes its Processor.

GROSS PAYMENT

When Contractor pays Comptroller in United States Dollars for the face amount of Charges submitted, Contractor will deduct any credits submitted. Separately, Contractor will debit the Comptroller: 1) any amounts the Subscriber(s) owe Contractor (except for the Discount); and 2) any amounts for which Contractor has Full Recourse. The Discount will not be deducted from the face amount of the Charges submitted. Instead, Contractor will debit the designated ACH Account monthly for the aggregate Discount with respect to all of that month's Charges. In order to be eligible for this option, Comptroller must: 1) submit all Charges to Contractor electronically; 2) receive all payments electronically via ACH; and 3) be paid on the Basic (2-day) Payment Plan. Comptroller may not receive payment on behalf of any other entity except for Subscribers.

Discount Rate

The Discount is the amount Contractor charges Subscribers for accepting the Card. The initial Discount rate is the percentage set forth on the signature page of this Agreement. Effective every April 1st (beginning after the first full calendar year of Card acceptance hereunder) Contractor may adjust the Discount rate. Contractor further has the right to adjust the Discount rate at any time upon sixty (60) days written notice to Subscribers and Comptroller.

Payment Method

Under the Electronic Pay Program (*Electronic Pay*), funds are sent electronically via the Automated Clearinghouse of the Federal Reserve System (*ACH*). Comptroller must inform Contractor of the designated demand deposit account (*Account*) at a bank (*Bank*) that participates in ACH. Contractor will initiate payment to the designated Account via ACH within two (2) business days (excluding Sunday and any Federal Reserve holiday) after Contractor receives and processes the applicable Charges. If the payment date falls on a day that Contractor's bank is not open for processing ACH payments, Contractor will initiate payment on the next day that Contractor's bank is open for processing ACH payments. Contractor will not be responsible for any obligations or liabilities including, but not limited to, incidental or consequential damages over and above the amount of the applicable debit, credit or adjustment to the Account in the event that any such debit, credit or adjustment is not honored by the Bank or is improperly applied to the Account. Furthermore, Contractor is not responsible for the remittance, or timeliness thereof, of payment from Comptroller to Subscriber.

DISPUTE RESOLUTION

Chapter 2260 of the Government Code prescribes dispute resolution processes for certain breach of contract claims applicable to certain contracts for goods and services. Comptroller and/or Subscribers may adopt rules under chapter 2260 as described in that statute.

If and to the extent that Chapter 2260 applies to this Agreement and to a specific breach of contract claim under this Agreement, the following shall apply:

The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by Comptroller and/or Subscribers and Contractor to attempt to resolve any claim for breach of contract made by Contractor under this Agreement:

- (A) Contractor's claim for breach of this Agreement that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, Contractor shall submit written notice, as required by Chapter 2260, to the Deputy Comptroller and/or Subscriber contact or their designee as applicable. Said notice shall also be given to all other representatives of Comptroller and/or Subscriber(s) and Contractor otherwise entitled to notice under this Agreement. Compliance by Contractor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.

- (B) The contested case process provided in Chapter 2260 is Contractor's sole and exclusive process for seeking a remedy for an alleged breach of contract by Comptroller and/or Subscriber if the parties are unable to resolve their disputes under subparagraph (A) of this section.
- (C) Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking to sue from the legislature under Chapter 107, Civ. Prac. and Rem. Code. Neither the execution of this Agreement by Comptroller and/or Subscriber nor any other conduct of any representative of Comptroller and/or Subscriber relating to this Agreement shall be considered a waiver of sovereign immunity to suit.

If and to the extent that Chapter 2260 does not apply to this Agreement or to a specific breach of contract claim or a dispute under this Agreement, the following shall apply:

Should a dispute arise out of this Agreement, Comptroller and/or Subscriber, and Contractor shall first attempt to resolve it through direct discussions in a spirit of mutual cooperation. If the parties' attempt to resolve their disagreements through negotiations fail, the dispute will be mediated by a mutually acceptable third party to be chosen by Comptroller and/or Subscriber, and Contractor within fifteen (15) days after written notice by one of them demanding mediation under this section. Contractor and Comptroller and/or Subscriber shall equally pay all costs of the mediation unless Comptroller and/or Subscriber does not have sufficient appropriations for such costs after reasonably seeking to provide such monies. By mutual agreement, Comptroller and/or Subscriber and Contractor may use a non-binding form of dispute resolution other than mediation. The purpose of this section is to reasonably ensure that Comptroller and/or Subscriber and Contractor shall in good faith utilize mediation or another non-binding dispute resolution process before pursuing litigation. Comptroller's and/or Subscriber's participation in or the results of any mediation or another non binding dispute resolution process under this Section or the provisions of this Section shall not be construed as a waiver by Comptroller and/or Subscriber of (1) any rights, privileges, defenses, remedies or immunities available to Comptroller and/or Subscriber as an agency of the State of Texas or otherwise available to Comptroller and/or Subscriber; (2) Comptroller's and/or Subscriber's termination rights; or (3) other termination provisions or expirations dates of this Agreement.

Notwithstanding any other provision of this Agreement to the contrary, Contractor shall continue performance and shall not be excused from performance during the period any breach of contract claim or disputing is pending under either of the above processes.

ASSIGNMENT

Comptroller may not assign this Agreement. Contractor may assign this Agreement to Contractor's parent, subsidiaries, or affiliates.

NO WAIVER

Failure to enforce any term or condition of this Agreement shall not be a waiver of the right to later enforce such term or condition or any other term or condition of this Agreement.

CHANGING THIS AGREEMENT

Any change(s) to this Agreement must be in writing and must be duly signed by Comptroller and Contractor.

ENTIRE AGREEMENT

This Agreement, along with The Subscription Addendum, represents the entire Agreement with respect to the subject matter hereof and supersedes any previous Agreement with respect to the subject matter hereof.

AUTHORITY TO SIGN

Each party represents that the individual who signs this Agreement has authority to do so and to bind it to the terms and conditions of this Agreement. The parties each represent and warrant that each party has full authority to enter this Agreement and perform the obligations indicated herein and that each party shall be liable for their failure to comply with the provisions of this Agreement.

APPLICABLE TO SUBSCRIBERS

Subscribers may initiate Card Acceptance by signing the Subscription Agreement for American Express® Card Acceptance in the form found attached hereto in the Subscription Addendum and thereby adhering to the terms and conditions contained in this Agreement that were negotiated between the Comptroller and Contractor and executing any necessary Addenda to the Subscription Agreement.

CARD ACCEPTANCE PROCEDURES

Procedures for Card Acceptance are set forth below. Subscribers shall comply with any changes in these procedures within sixty (60) days' written notice from Contractor. Changes in Card Acceptance procedures are generally applicable Establishment-wide and include, but are not limited to, compliance with federally mandated regulations, cost-saving operating initiatives for Establishments and Contractor, and other similar instances.

Charge Records

For every Charge, Subscriber(s) shall create a record of Charge (*Charge Record*) or an electronic reproducible record containing: 1) the Card account number and expiration date; 2) the date the Charge was incurred; 3) the amount of the Charge, which must be the total amount of the payments or purchases on the Card plus applicable taxes; 4) the Authorization approval code number; 5) a mutually acceptable description of the goods or services purchased; 6) an imprint or other registration of its name, address, and the account number (*Merchant Number*) assigned for such Location(s); 7) the Cardmember's signature; and 8) the words "No Refunds" if they have a No Refund policy.

In Person Charges

For Charges made in person, Subscriber(s) shall:

Create a Charge Record as described above and verify that the Cardmember's signature on the Charge Record reasonably matches the signature on the back of the Card;

Verify that the Card is not visibly altered or mutilated;

Ensure that the Card is being used within the valid dates shown on the face of the Card;

Verify that the Card is signed in the same name as the name embossed on the front of the Card;

Obtain Authorization as described below.

Other Charges

For all other Charges, such as Charges made by mail, telephone, via the Internet or at unattended Locations, Subscriber(s) shall:

Create a Charge Record as described above, except with the words "Mail Order," "Telephone Order", "Internet Order" or "Signature on File" on the Cardmember signature line; and

Obtain Authorization as described below.

If the Cardmember denies making or authorizing such a Charge and Subscriber has not obtained the Cardmember's signature for the Charge, Contractor will have the right to Full Recourse for such Charge. Contractor will not have the right to Full Recourse for such a Charge based upon a claim that the goods were not received if Subscriber has: 1) verified that the address to which the goods were shipped is the Cardmember's billing address; and 2) obtained a signed receipt verifying the delivery of the goods to the Cardmember at such address.

Authorization

Subscriber(s) shall obtain an authorization approval code number from Contractor as described below (*Authorization*). Each Authorization request must be for the total amount for payments or purchases plus applicable taxes. Authorization is not a guarantee that Contractor will accept the Charge without Full Recourse, nor is it a guarantee that the person making the Charge is the Cardmember. Subscriber(s) shall not obtain Authorization on behalf of any other entity.

Subscriber(s) shall obtain Authorization for every Charge regardless of amount. If a Subscriber's terminal is unable to reach Contractor's computer authorization system for Authorization, Subscriber shall obtain Authorization for all Charges by calling Contractor at Contractor's authorization telephone number. Subscriber(s) shall be charged 65 cents for each Charge for which Subscriber(s) request authorization by telephone unless such failure to electronically authorize is due to Contractor's computer authorization system being inoperable. Contractor retains the right to change the amount Contractor charges to Subscriber(s) for requesting Authorization by telephone at any time with thirty (30) day written notice.

Subscriber(s) shall obtain Authorization for all Charges described in the section entitled "Other Charges" and for all Recurrent Billing Charges regardless of the Authorization method and the amount of the Charge.

For Charges for goods or services which are shipped or provided more than thirty (30) days after the order is made, Subscriber(s) shall obtain Authorization for such Charge at the time the order is made and again immediately before Subscriber(s) ships the goods or provides the services to the Cardmember.

Credits

When Subscriber(s) gives a refund for a purchase made with a Card, Subscriber must credit that Card account (*Credit*). Subscriber(s) must create a record of Credit (*Credit Record*) and submit the Credit to Contractor within seven (7) days of determining the Credit is due. Subscriber(s) shall issue Credits only for Charges made with the Card. Subscriber(s) shall not give a cash refund for goods or services purchased with the Card.

Notwithstanding the foregoing, Comptroller may issue a warrant (i.e. check) on behalf of a Subscriber, in lieu of a Credit, in one instance: for Charges that constitute a payment of taxes owed by the Cardmember to the State of Texas in which the warrant process is the only process for refunds for payments (or Charges) of such type. In such an instance, Subscriber or Comptroller must notify the Cardmember at the time of the Charge that the only way to receive a refund for this Charge is by the issuance of a warrant and not through a credit to the Cardmembers Card account and the Cardmember must agree. Regardless of whether a warrant has been issued to the Cardmember, Contractor retains the right to Full Recourse for the applicable Charge in accordance with this Agreement.

Refunds

Subscriber's refund policy for purchases made with the Card must be at least as favorable as Subscriber's refund policy for purchases made with any other form of payment. Subscriber(s) shall disclose their refund policy to Cardmembers at the time of the purchase and in a manner that complies with applicable law.

Submission and Acceptance of Charges and Credits

Subscribers shall submit all Charges to Contractor within seven (7) days of the date Charges are incurred; provided, however, that Subscribers shall not submit any Charge until the goods or services purchased have been delivered to the Cardmember. Subscribers or the Comptroller shall submit Credits as described above in "Credits." Charges and Credits will be deemed accepted on a given business day if received and processed before Contractor's close of business for that day at the location Contractor designates. Subscribers shall not submit Charges or Credits on behalf of any other entity and the Comptroller shall not submit Charges or Credits on behalf of any entity that is not a Subscriber.

Subscribers and Comptroller warrant that all indebtedness arising from Charges submitted in accordance with this Agreement are genuine and free of any liens, claims or encumbrances. Subscribers and Comptroller acknowledge that neither party has any right to bill and/or collect from any Cardmember for any purchase made with the Card unless Contractor has exercised Contractor's right to Full Recourse with respect to that Charge and Subscribers and/or Comptroller have the right to collect under applicable laws and regulations.

When Subscribers and/or Comptroller submit Charges and Credits electronically (*Charge Data*), Subscribers and/or Comptroller shall do so over communications lines (*Transmission*). Even if Subscribers and/or Comptroller transmit Charge Data electronically Subscribers and/or Comptroller that transmitted shall still create and retain Charge Records and Credit Records.

In the event that Charges and Credits are submitted on paper, Subscribers and/or Comptroller shall submit Charge Records and Credit Records on forms approved by Contractor and in accordance with the instructions Contractor provides and containing the information Contractor requires, including but not limited to the Merchant Number Contractor assigns.

Transmissions must comply with the specifications Contractor provides and must contain information required by Contractor, including, but not limited to the Establishment number Contractor assigns and a description of the goods or services purchased which is acceptable to Contractor. At Contractor's request Subscribers and/or Comptroller shall place additional, less or differently formatted information on Transmissions within sixty (60) days written notice from Contractor. Contractor is not obligated to accept any Transmission that does not comply with Contractor's requirements.

Recurrent Billing

If Subscribers offer automatic recurrent billing for a series of separate purchases, Cardmembers must sign a consent form (*Consent Form*) authorizing Subscribers to charge Cardmembers' Card accounts for specific amounts at specific times (*Recurrent Billing Charges*). Subscribers shall obtain a Consent Form before submitting the first Recurrent Billing Charge. The Consent Form

must include the Cardmember's name, Card account number and signature; the amount of each Recurrent Billing Charge; the frequency of such Recurrent Billing Charges; the date the Recurrent Billing Charges will begin and end; and a statement that the Cardmember may cancel the Consent Form at any time. Subscribers shall retain Consent Forms for twenty-four (24) months from the date Subscriber submits the last Recurrent Billing Charge. Before submitting each Recurrent Billing Charge, Subscribers shall obtain Authorization and complete a Charge Record except with the words "Signature on File" on the Cardmember signature line.

Document Retention

For each Charge and/or Credit, Subscribers and/or Comptroller shall retain the original Charge Record or Credit Record and all documents evidencing such transaction or reproducible record thereof, for twenty-four (24) months from the later of the date (i) the Charge or the Credit was submitted to Contractor or (ii) Subscribers have fully delivered the goods or provided the services purchased. Subscribers and/or Comptroller, as appropriate, shall provide a copy of the Charge Record or Credit Record and other supporting documents to Contractor within twenty (20) calendar days of Contractor's request and Subscribers and/or Comptroller acknowledge that Contractor will have the right to Full Recourse with respect to any Charge for which Subscribers and/or Comptroller fail to provide such documents within such time period.

Honoring Cards

Subscribers shall honor Cards properly presented in accordance with this Agreement and to fulfill all obligations under this paragraph. When a customer asks what payment methods Subscribers accept, Subscribers shall mention the American Express Card. When a Cardmember makes or requests to make a purchase with the Card, Subscribers shall: not try, in any way, to persuade the Cardmember to use any other payment method; not offer to extend credit or charge services to the Cardmember for that transaction through Subscribers own or any other charge, credit, debit or similar card or service; and not criticize or mischaracterize the Card. Subscribers agree not to state or publish a preference for any other charge, credit, debit or similar card or service over the Card. Except for special promotions of limited duration funded by an issuer of another charge, credit or debit card, Subscribers shall not promote the use of any other charge, credit, debit or similar card or service more actively than Subscribers promote the use of the Card.

Subscribers shall display American Express signs, decals and other identification prominently at Subscriber Establishments, including Contractor's "Take-One" containers filled with Card application forms, to the same extent that Subscribers display such identification for other charge, credit, debit or similar cards or services.

FULL RECOURSE

Full Recourse means that Contractor has the right to payment from Subscribers for the full amount of each Charge subject to such right. Contractor may deduct, recoup and offset such amount from payments to Subscribers or Subscribers shall pay Contractor promptly upon receipt of Contractor's invoice. Contractor shall have Full Recourse if Subscribers do not comply with the terms of this Agreement with respect to a Charge(s), even if Contractor had notice when Contractor paid Subscribers for the Charge(s) that Subscribers did not so comply and even if

Subscribers obtained Authorization for the Charge(s) in question. Contractor will also have the right to Full Recourse as provided elsewhere in this Agreement.

DISPUTED CHARGES

If Contractor contacts Subscribers regarding a claim, complaint, or question about any Charge (*Disputed Charge*), Subscribers shall respond to Contractor in writing within twenty (20) days after Contractor contacts Subscribers. Contractor will have Full Recourse for the amount of each such Disputed Charge if, by the end of that time period, Subscribers have not provided Contractor with a written substantive response to Contractor's inquiry that addresses all the aspects of the Cardmember's claim and includes all documentation Subscriber does have or should have relating to the Disputed Charge which enables Contractor to resolve the dispute. If a Cardmember, despite Subscriber's reply, continues to withhold payment for such Disputed Charge and the Cardmember has the right under applicable law to withhold such payment, Contractor will have the right to Full Recourse for such Charge.

PROHIBITED TRANSACTIONS

Subscribers shall not accept the Card for: Capital obligations and/or extraordinary expenses, including penalties or fines of any kind (except for those permitted under applicable law), damages, losses or any other costs or fees that are beyond the normal basic fee for the goods or services provided; gambling services (including lottery tickets), gambling chips or gambling credits; cash; goods which will be resold; sales by third parties; or amounts which do not represent a *bona fide* sale of goods or services at a Location.

CONFIDENTIALITY

To the extent permitted by applicable law, Comptroller, Subscribers and Contractor shall keep confidential and not disclose to any third party the terms of this Agreement and any information received from the other that is not publicly available.

To the extent permitted by applicable law, Subscribers and Comptroller agree that the names, addresses and account numbers of Cardmembers are the sole and exclusive property of American Express. Subscribers and Comptroller shall not use or disclose any Cardmember's name, address or account number except as provided in this Agreement.

Notwithstanding the foregoing, Contractor recognizes and understands that Subscribers and Comptroller are Agencies of the State of Texas and are subject to the Texas Public Information Act (formally the Texas Open Records Act).

TRADEMARKS AND SERVICE MARKS

This Agreement does not give any party, Subscribers, Comptroller or Contractor, any rights in any other party's name, logo, service marks, trademarks, trade names, taglines or any other proprietary designation (*Marks*). No use may be made of another party's Marks without the prior

written permission of that party which will not be unreasonably withheld. Where Subscribers or Comptroller mention the Card as a payment method they shall use Contractor's Marks, but only as described in Contractor's logo sheets. Subscribers agree that Contractor may list Subscriber's name and address and Subscriber's Location(s) in materials containing lists of establishments which accept the Card which Contractor may publish from time to time.

NOTICES

Any written notices required under this Agreement will be by either hand delivered to the receiving party listed below or by U.S. Mail, certified, return receipt requested, addressed to the appropriate address. Notice will be effective on receipt by the affected party. Either party may change the designated notice address in this Section by written notification to the other party.

Unless otherwise notified,
Comptroller will send all notices to:

American Express Travel Related
Company, Inc.
1661 E. Camelback
Phoenix, AZ 85016 Camelback

Attn: SE Maintenance Unit

Notices will be sent to
Comptroller at:

Texas Comptroller of Services
Public Accounts
PO Box 12608
Austin, Texas 78711

Attn: Cash Management
Programs

INDEMNIFICATION

Comptroller and/or Subscriber(s), as agencies of the State of Texas and to the extent authorized by the Constitution and laws of the State of Texas, shall indemnify and hold harmless Contractor, its parent, subsidiaries, affiliates, licensees, successors and assigns from and against any and all damages, losses, costs and/or expenses including, but not limited to, reasonable attorneys' fees, arising from Comptroller's and/or Subscriber's own acts or omissions in connection with the relationship established by this Agreement including, but not limited to, the breach of this Agreement by Comptroller or Subscriber(s) as applicable; provided, however, that this agreement for Comptroller and/or Subscriber to indemnify and hold harmless American Express shall in no way be construed to constitute a waiver by Comptroller and/or Subscribers of their sovereign immunity as agencies of the State of Texas, or of any of their defenses, privileges and immunities as agencies of the State of Texas.

Contractor shall indemnify and hold harmless Comptroller and Subscribers, and/or their officers and employees, from and against any and all damages, losses, costs and/or expenses including, but not limited to, reasonable attorneys' fees, arising from Contractor's acts and omissions in connection with the relationship established by this Agreement including, but not limited to, the breach of this Agreement by Contractor.

TERM & TERMINATION

This Agreement will commence on the Effective Date and continue for a period of three (3) years (*Initial Term*) unless terminated sooner (in accordance with its terms) by either party, in its sole discretion, upon sixty (60) days prior written notice at the applicable address referenced in the "Notices" section of this Agreement. After the Initial Term, this Agreement may be extended up to three (3) times for one (1) year each by mutual agreement. After the Initial Term, either party may terminate the Agreement by written notice. Such termination will be effective sixty (60) days after receipt of such notice. Notwithstanding the foregoing, continuation of this Agreement and each Subscription Agreement beyond August 31, 2001 is contingent upon continued availability of funds appropriated by the Texas Legislature. Furthermore, in the event that Comptroller terminates this Agreement, Subscribers that initiated their Card Acceptance relationship by signing the Subscription Agreement for American Express® Card Acceptance in the form found attached hereto in The Subscription Addendum are automatically terminated. Likewise, any Subscribers that signed their own Agreement for American Express® Card Acceptance may continue acceptance in accordance with their Agreement. The termination of Card Acceptance by a Subscriber will have no effect on the continuance of this Agreement.

In the event that Subscribers and/or Comptroller state or publish a preference for any other charge, credit, debit or similar card or service over the Card, and in addition to any and all other rights and remedies Contractor may have under this Agreement and/or in law or in equity, Contractor shall have the right to immediately terminate this Agreement upon Contractor sending written notice of such termination to Comptroller.

This Agreement is an Agreement to extend financial accommodations and that if insolvency proceedings or similar proceedings are filed with respect to Subscriber(s) and/or Comptroller, this Agreement is automatically terminated. If Subscriber(s) and/or Comptroller cease or adversely alter their operations, or if Subscriber(s) and/or Comptroller sell all or substantially all of their assets or stock, or if Subscriber(s) and/or Comptroller becomes insolvent, or if Contractor receives a disproportionate number of Cardmember inquiries or complaints relating to Charges at Subscribers' Locations or if Contractor has reasonable cause to believe that Subscriber(s) and/or Comptroller will not be able to perform all their obligations under this Agreement, Contractor may, in Contractor's discretion, immediately terminate this Agreement. Subscriber(s) and/or Comptroller must notify Contractor immediately if any of the above events occur.

Upon termination, Subscribers and/or Comptroller must: 1) remove all American Express identification and return Contractor's materials and equipment immediately; 2) submit any Charges incurred prior to the termination in accordance with this Agreement; and 3) submit any Credits relating to these Charges in accordance with this Agreement. Rights under the sections entitled "Full Recourse," "Disputed Charges," "Confidentiality," "Indemnification," "Gross Payment" and "Termination" shall survive termination of this Agreement.

FAMILY CODE

Under Section 231.006 of the Texas Family Code (relating to Child support), Contractor represents and warrants that Contractor is not ineligible to receive the specified payment and acknowledges that this Agreement may be terminated and payment withheld if this representation and warranty is inaccurate.

ELIGIBILITY

Contractor certifies that Contractor holds a permit issued by Comptroller to collect or remit all state and local sales and use taxes that become due and owing as a result of the entity's business in Texas, or certifies that Contractor does not sell tangible personal property or services that are subject to the state and local sales and use tax. Under Section 2155.004 of the Texas Government Code (relating to certain taxes), Contractor represents and warrants that Contractor is not ineligible to receive this Agreement and acknowledges that this Agreement may be terminated and payment withheld if this representation and warranty is inaccurate. Contractor represents and warrants that Contractor is not delinquent in the payment of any franchise taxes owed the State of Texas.

LIABILITY FOR TAXES

Contractor represents and warrants that Contractor shall pay all taxes or similar amounts resulting from this Agreement including, but not limited to, any federal, state, or local income, sales or excise taxes of Contractor or Contractor's employees. Comptroller and Subscribers shall not be liable for any such taxes resulting from this Agreement.

HUBS

Contractor represents and warrants that Contractor shall comply with the Historically Underutilized Business requirements of this Agreement by completing Part D of the HUB Participation Form.

AMENDMENTS

Except as otherwise provided in this Agreement, this Agreement may be amended only upon written agreement between Comptroller and Contractor; however, this Agreement may not be amended so as to make it conflict with the laws of the State of Texas.

TIME LIMITS

Time is of the essence in the performance of this Agreement. Contractor shall strictly comply with all of the deadlines, requirements, and Standards of Performance for this Agreement.

COMPLIANCE WITH LAWS/VENUE

This Agreement will be governed and construed under and in accordance with the laws of the State of Texas. Any and all obligations or payments under the Agreement are due and payable in Travis County, Texas, and venue is proper in only such county.

PARTIALLY COMPLETED WORK

No later than the first calendar day after the termination of this Agreement or a time period otherwise agreed upon, or at Comptroller's request, Contractor shall deliver to Comptroller all completed, or partially completed, work and any and all documentation or other products and results of these services. Failure to timely deliver such work or any and all documentation or other products and results of the services shall be considered a material breach of this Agreement. Contractor shall not make or retain any copies of the work or any and all documentation or other products and results for the services without the prior written consent of Comptroller unless required by applicable law.

FEDERAL, STATE, AND LOCAL REQUIREMENTS

Contractor shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Contractor is responsible for both Federal and State Unemployment insurance coverage and Standard Worker's Compensation Insurance coverage. Contractor shall comply with all Federal and State tax laws and withholding requirements. Comptroller and Subscribers shall not be liable to Contractor or Contractor's employees for any Unemployment or Workers' Compensation coverage, or Federal or State withholding requirements. Contractor shall indemnify Comptroller and Subscribers and pay Comptroller and/or Subscriber(s) all costs, penalties, or losses resulting from Contractor's omission or breach of this Section.

SEVERABILITY CLAUSE

In the event that any provision of this Agreement is later determined to be invalid, void, or unenforceable, then the remaining terms, provisions, covenants, and conditions of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

APPLICABLE LAW AND CONFORMING AMENDMENTS

Contractor shall comply with all laws, regulations, requirements and guidelines applicable to a Contractor providing similar services to Comptroller and/or Subscriber(s), as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Agreement. Comptroller reserves the right, in its sole discretion, to unilaterally amend this Agreement throughout its term to incorporate any modifications necessary for Comptroller's, or Subscriber's, or Contractor's compliance with all applicable state and federal

laws, regulations, requirements and guidelines as are reasonable and do not hinder Contractor's ability to perform in accordance with this Agreement. If such a change does hinder Contractor's ability to perform Contractor's duties in accordance with this Agreement, then Contractor retains the right to terminate this Agreement in accordance with this Agreement.

NO WAIVER

This Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Comptroller and/or Subscribers as agencies of the State of Texas or otherwise available to Comptroller and/or Subscribers. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities available to either party under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies or immunities or be considered as a basis for estoppel. Comptroller and Subscribers do not waive any privileges, rights defenses, or immunities available to Comptroller and Subscribers as agencies of the State of Texas, or otherwise available to Comptroller and Subscribers, by entering into this Agreement or by its conduct prior to or subsequent to entering into this Agreement.

NO LIABILITY UPON TERMINATION

If this Agreement is terminated for any reason, Comptroller, Subscribers, and the State of Texas shall not be liable to Contractor for any damages, claims, losses, or any other amounts arising from or related to any such termination.

INDEPENDENT CONTRACTOR

Contractor shall serve as an independent Contractor in providing services under this Agreement. Contractor's employees are not and shall not be construed as employees of Comptroller or Subscribers.

LIMITATION ON AUTHORITY; NO OTHER OBLIGATIONS

Contractor shall have no authority to act for or on behalf of Comptroller, or Subscribers, or the State of Texas except as expressly provided for in this Agreement; no other authority, power or use is granted or implied. Contractor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of Comptroller, Subscribers, or the State of Texas.

NO OTHER BENEFITS

Contractor shall have no exclusive rights or benefits other than those set forth herein.

PATENT, TRADEMARK, COPYRIGHT AND OTHER INFRINGEMENT CLAIMS

Contractor shall indemnify, save and hold harmless Comptroller, Subscribers, and the State of Texas from and against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations, or infringements arising from Comptroller's, or Subscribers, or Contractor's use of or acquisition of any services or other items provided to Comptroller and/or Subscribers by Contractor or otherwise to which Comptroller and/or Subscribers have access as a direct result of Contractor's performance under this Agreement, provided that Comptroller or Subscriber shall notify the Contractor of any such claim within a reasonable time of receiving notice of any such claim. Contractor shall pay all reasonable costs of Comptroller's or Subscriber's counsel. If Contractor is notified of any claim subject to this Section, Contractor shall notify Comptroller and/or Subscriber of such claim within five (5) working days of such notice. If Comptroller and/or Subscriber determines that a conflict exists between its interests and those of Contractor, or if Comptroller and/or Subscriber is required by applicable law to select separate counsel, Comptroller and/or Subscriber shall be permitted to select separate counsel and the reasonable costs of such Comptroller's and/or Subscriber's counsel shall be paid by Contractor. No settlement of any such claim shall be made by Contractor without Comptroller's and/or Subscriber's prior written approval. Contractor shall reimburse Comptroller and/or Subscriber and the State of Texas for any claims, damages, losses, costs, expenses, judgements or any other amounts, including, but not limited to, attorney's fees and court costs, arising from any such claim. Contractor represents that it has determined what licenses, patents, and permits are required under this Agreement and has acquired all such Licenses, patents, and permits.

SUPPORTING DOCUMENTS; INSPECTION OF RECORDS

Contractor shall maintain and retain supporting fiscal documents adequate to ensure that claims for Agreement funds are in accordance with applicable State of Texas requirements. These supporting fiscal documents shall be maintained and retained by Contractor for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later (usually two (2) years). Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, and supporting documents pertaining to this Agreement for purposes of inspecting, monitoring, auditing, or evaluating by Comptroller or the State of Texas.

DTPA; UNFAIR BUSINESS PRACTICES

Contractor, to the best knowledge of the individual signing on Contractor's behalf, represents and warrants that Contractor has not been the subject of a Deceptive Trade Practices Act or any unfair business practice administrative hearing or court suit and that Contractor has not been found guilty of such practices in such proceedings. Contractor certifies, to the best knowledge of the individual signing on Contractor's behalf, that Contractor has no officers who have served as officers of other entities who have been the subject of a Deceptive Trade Practices Act or any unfair business administrative hearing or court suit and that such officers have not been found to be guilty of such practices in such proceedings.

IMMIGRATION

Contractor represents and warrants that Contractor shall comply with the requirements of the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under the Agreement.

EQUAL OPPORTUNITY

Contractor represents and warrants that Contractor shall comply with the Civil Rights Act in giving equal opportunity without regard to race, color, creed, sex or national origin.

ANTITRUST

Contractor represents and warrants that neither Contractor, nor any firm, corporation, partnership, or institution represented by Contractor, nor anyone acting for such firm, corporation or institution has violated the antitrust laws of the Texas codified in 15.01, et. Seq. Business and Commerce Code, or the federal antitrust laws, nor communicated directly or indirectly Contractor's offer to any competitor or any other person engaged in such line of business.

NO CONFLICTS

Contractor represents and warrants that Contractor has no actual or potential conflicts of interest in Contractor's provision of services to Subscribers and/or Comptroller pursuant to this Agreement and that Contractor's provision of services under this Agreement would not reasonably create an appearance of impropriety.

FINANCIAL INTERESTS

Contractor represents and warrants that neither Contractor nor any person or entity that will participate financially in the Agreement has received compensation from Contractor for participation in preparation of the Agreement or other specifications for the Agreement. Contractor represents and warrants that Contractor has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to any public servant or employee in connection with this Agreement.

ADA

Contractor represents and warrants that Contractor shall comply with the requirements of the Americans with Disabilities Act (ADA).]

FELONY CRIMINAL CONVICTIONS

Contractor, to the best knowledge of the officer signing on Contractor's behalf, represents and warrants that Contractor has not and Contractor's employees have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Contractor has fully advised Comptroller as to the facts and circumstances surrounding the conviction.

YEAR 2000

In the event that Contractor is unable to materially perform Contractor's obligations under this Agreement due to the failure of Contractor's systems to accurately process date/time data from, into, and between the twentieth and twenty first centuries, and such failure to perform is in no way due to Subscribers' and/or Comptroller's act or omission, and Contractor is unable to remedy such nonperformance within sixty (60) days of notice from Comptroller of such nonperformance, then Comptroller may terminate this Agreement. Right of termination does not limit any other rights to remedy under this Agreement and under law or equity.

In the event that Comptroller and/or Subscriber is unable to materially perform Comptroller's and/or Subscriber's obligations under this Agreement due to the failure of Comptroller's and/or Subscriber's systems to accurately process date/time data from, into, and between the twentieth and twenty first centuries, and such failure to perform is in no way due to Contractor's act or omission, and Comptroller and/or Subscriber is unable to remedy such nonperformance within sixty (60) days of notice from Contractor of such nonperformance, then Contractor may terminate this Agreement. Right of termination does not limit any other rights to remedy under this Agreement and under law or equity.

PROHIBITED PAYMENTS

If at any time during the term of this Agreement, the State is prohibited from issuing a warrant to Contractor under Section 403.055, Government Code, the following sentence shall apply to this Agreement:

All of Contractor's payments under this Agreement shall be applied toward the debt or delinquent taxes that Contractor owes the State until debt or delinquent taxes are paid in full.

Contractor shall comply with Comptroller's rules adopted under Section 403.055, Government Code.

FALSE STATEMENTS; BREACH OF REPRESENTATIONS, ETC.

By signature to this Agreement, the parties make all representations, warranties, guarantee, certifications and affirmations included in this Agreement. If either party signs this Agreement with a false statement or it is subsequently determined that any of the representations, warranties, guarantees, certifications or affirmations included in this Agreement are not true, the offending party will be in default under this Agreement and the non-offending party may remedy such default by terminating or voiding this Agreement, which remedy shall be the non-offending party's sole and exclusive remedy with respect thereto.

FORCE MAJEURE

Except as otherwise provided, neither Comptroller nor Subscriber nor Contractor shall be liable to the other for any delay in, or failure of performance, of any requirement included in the Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Force majeure is defined as those causes generally recognized under Texas law as constituting impossible conditions. Each party must inform the other in writing with proof of receipt within three business days of the existence of such force majeure or otherwise waive this right as a defense. This section does not apply to Contractor's delay in performance or failure to perform due to Year 2000 issues.

CONTRACTOR:
AMERICAN EXPRESS TRAVEL
RELATED SERVICES COMPANY, INC.

By: _____
Stephen J. Squeri
President, Canada & U.S.
Establishment Services

STATE OF TEXAS
COMPTROLLER OF PUBLIC ACCOUNTS

By: *Billy C. Hamilton*

Name: Billy C. Hamilton

Title: Deputy Comptroller

Effective Date: _____, 2000

Discount Rate: 2.15 %



Exhibit A

SUBSCRIPTION AGREEMENT FOR AMERICAN EXPRESS ® CARD ACCEPTANCE

This instrument (the "Agreement") is between **AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.**, ("Contractor"), and the undersigned governmental entity ("Subscriber").

For good and valuable consideration, receipt of which is hereby acknowledged, Subscriber and Contractor agree as follows:

1. The terms and conditions of the Agreement for American Express Card Acceptance (the "Master Agreement") between the State of Texas and Contractor shall be incorporated herein by this reference as if fully set forth herein.

2. All terms used herein shall have the same meaning as in the Master Agreement, unless specified to the contrary.

3. For purposes of this Subscription Agreement, the term "Subscriber" under the Master Agreement shall mean the undersigned governmental entity.

4. Subscriber shall accept the Card under the terms of the Master Agreement, at a minimum, at all Subscriber locations where Subscriber accepts any other charge, debit or credit card payment methods in payment for all goods and services sold (except as noted in the Master Agreement). In addition, Subscriber represents that Subscriber has received all necessary approvals for Subscriber to enter into this Agreement.

5. Term of Agreement. Notwithstanding anything to the contrary contained herein, this Subscription Agreement shall continue in effect for so long as the Master Agreement is in full force and effect. If the Master Agreement terminates for any reason, this Subscription Agreement shall terminate immediately without further notice.

6. All terms and conditions of the Master Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed

effective as of _____, 200__.

SUBSCRIBER:

(Name of Governmental Entity)

By: _____

Name: _____

Title: _____

Discount Rate = 2.15%

CONTRACTOR:

**AMERICAN EXPRESS TRAVEL
RELATED SERVICES COMPANY,
INC.**

By: _____

Stephen J. Squeri
President, Canada & U.S.
Establishment Services

Exhibit A (cont.)

INFORMATION NEEDED TO SET UP AMEX MERCHANT NUMBERS

Please provide a list of each location that needs an American Express merchant number including the name (area/department/function) as it should appear on Contractor's records along with the address and phone number for each. Additionally, please provide the annual revenue collected for these areas.

Additional

Address(es)?: _____

Attention: _____ Reports ___ Correspondence ___ Supplies ___ Other

Payment Information:

Individual Pay (Per Location) _____ Central Pay (All Locations Combined) _____

ACH (**Deposits**): ABA _____ DDA _____ Bank _____

ACH (**Debits**): ABA _____ DDA _____ Bank _____

Reconciliation Reporting Method:

SE Workstation (Electronic): via Internet _____ via PC Software _____

Paper: _____ Calendar Month _____ Weekly (Starting on which day of week? _____)

_____ Pay in gross _____ Daily Summary Fax _____ Daily Detail Fax

Fax # _____ Attn: _____

(NOTE: With the Daily Detail Fax option, Subscriber will not receive monthly back-up paper report)

Supply Information:

Send Supplies To: Each Location? _____ HQ Address? _____

Supplies Requested: Decals _____ Plaques _____
(Indicate Multi-Card or Amex-Only)

**AMENDMENT NO. 2
AGREEMENT FOR AMERICAN EXPRESS CARD ACCEPTANCE
BETWEEN
THE TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
AND
AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.**

This Amendment No. 2 to the Agreement for American Express Card Acceptance ("Agreement") between the Texas Comptroller of Public Accounts ("Comptroller") and American Express Travel Related Services Company, Inc. ("Contractor") is entered into by and between the Comptroller and the Contractor.

RECITALS

WHEREAS, on July 21, 2000, the Comptroller and the Contractor entered into the Agreement; and

WHEREAS, the Comptroller and the Contractor executed an Amendment No. 1 that extended the term of the Agreement through December 31, 2004; and

WHEREAS, the Comptroller and the Contractor now desire to execute this Amendment No. 2, which will extend the term of the Agreement; modify the "Disputed Charges" section of the Agreement and add additional terms as required by law:

NOW, THEREFORE, in consideration of mutual covenants and agreements, herein contained, the Comptroller and the Contractor hereby agree to the following amendments:

1. Pursuant to the Section entitled Term & Termination of the Agreement, the term of the Agreement is extended for one (1) year, through on December 31, 2005 ("Extended Term") unless sooner terminated according to the terms of the Agreement. Comptroller and Contractor each agree that at the end of the Extended Term, the Agreement will continue in full force and effect on a calendar year basis unless and until one party provides sixty (60) days written notice of termination to the other party.
2. Comptroller and Contractor each agree to strike the "DISPUTED CHARGES" section on Page 9 of the Agreement and replace it with the following new section titled "DISPUTED CHARGES":

"DISPUTED CHARGES

If Contractor contacts Subscribers regarding a claim complaint, or question about any Charge (Disputed Charge), or if Contractor sends a Disputed Charge to Subscribers for a reply promptly after exercising Contractor's right to Full Recourse from Subscribers, Subscribers shall respond to Contractor in writing within twenty (20) days after Subscribers receive such Disputed Charge. Contractor will have the right to Full Recourse from Subscribers in full for the amount of each such Disputed Charge or Contractor's previous decision to exercise Full Recourse shall remain in effect, if, by the end of that time period, Subscribers have not provided Contractor with a written substantive response to our inquiry that addresses all the aspects of the Cardmember's claim and includes all documentation Subscribers have or should have relating to the Disputed Charge which enables Contractor to resolve the Disputed Charge. If a Cardmember, despite Subscribers reply proving that Subscribers have provided the goods and/or services that are the subject of a Disputed Charge, continues to withhold payment for such Disputed Charge and the Cardmember has the right under applicable law to withhold such payment, Contractor will have the right to Full Recourse for such Disputed Charge, or Contractor's previous decision to exercise Full Recourse shall remain in effect."

3. The following section shall be added on Page 12 of the Agreement after the **LIABILITY FOR TAXES** section:

"DEBTS OR DELINQUENCIES TO STATE Contractor acknowledges and agrees that, to the extent Contractor owes any debt or delinquent taxes to the State of Texas, any payments or other amounts Contractor is otherwise owed under or related to this Agreement may be applied

by the Comptroller of Public Accounts toward any debt or delinquent taxes Contractor owes the State of Texas until the debt or delinquent taxes are paid in full. These provisions are effective at any time Contractor owes any such debt or delinquency. Contractor shall comply with rules adopted by the Comptroller under §§403.055, 403.0551, 2252.903, Tex Gov't Code, and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State of Texas."

4. The section entitled **SUPPORTING DOCUMENTS; INSPECTION OF RECORDS** on Page 15 of the Agreement shall be deleted in its entirety and the following substituted in its place:

"Supporting Documents; Right to Audit; Independent Audits. Contractor shall maintain and retain supporting fiscal documents adequate to ensure that claims for Agreement funds are in accordance with applicable Comptroller and State of Texas requirements. Contractor shall maintain all such documents and other records relating to this Agreement and the state's property for a period of five (5) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to the State's property, such as work papers, reports, books, data, files, software, records, and other supporting documents pertaining to this Agreement, for purposes of inspecting, monitoring, examining, or evaluating by Comptroller, the State of Texas or their authorized representatives. Contractor shall cooperate with examiners and other authorized Comptroller and State of Texas representatives and shall provide them with prompt access to all of such State's property as requested by Comptroller or the State of Texas. By example and not as an exclusion to other breaches or failures, Contractor's failure to comply with this Section shall constitute a material breach of this Agreement and shall authorize Comptroller to immediately assess liquidated damages in the amount of \$1000 per day for such failure up to a maximum of \$5,000 for each such breach or failure. For purposes of this Section, the "State's property" includes, but is not limited to, "Work" as defined in this Agreement. In its reasonable discretion and in good faith, Comptroller may require, at Contractor's sole cost and expense, independent audits by a qualified certified public accounting firm of Contractor's books and records or the State's property. The independent auditor shall provide Comptroller with a copy of such audit at the same time it is provided to Contractor. Comptroller retains the right to issue a request for proposals for the services of an independent certified public accounting firm under this Agreement.

In addition to the and without limitation on the other audit provisions of this Agreement, pursuant to Section 2262.003, Tex Gov't Code, the state auditor may conduct an audit or investigation of the Contractor or any other entity or person receiving funds from the state directly under this Agreement or indirectly through a subcontract under this Agreement. The acceptance of funds by the Contractor or any other entity or person directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. This Agreement may be amended unilaterally by the Comptroller to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.003. Under procedures provided by the state auditor on September 5, 2003, in addition to the above, (1) Contractor understands that the acceptance of funds under this Agreement acts as acceptance of the authority of the state auditor to conduct an audit or investigation in connection with those funds; (2) Contractor further agrees to cooperate fully with the state auditor in the conduct of the audit or investigation, including providing all records requested; and (3) Contractor shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards."

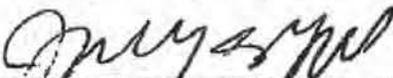
4. Appendices 1 through 3 are hereby incorporated into the Agreement and are listed on Exhibit A hereto. Contractor will provide updated and current certificates of insurance to the Comptroller within ten (10) days of the date of Contractor's execution of this Amendment No. 2.

5. This Amendment No. 2 shall be effective as of the date it is signed by and for the Comptroller, after having first been signed by the Contractor.

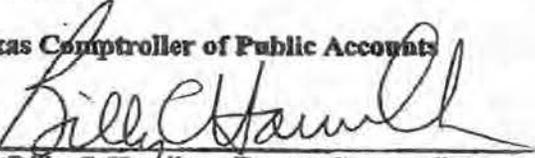
6. Except as expressly amended herein, all other terms of the Agreement, as amended, remain unchanged, are in full force and effect, and are ratified and affirmed by the parties. By their execution and delivery of this Amendment No. 2 neither party waives or releases any default hereunder.

EXECUTED on this 14th day of December 2004, by a person having the authority to bind the Contractor contractually.

American Express Travel Related Services Company, Inc.

By: 
Judy Schaefer, Vice President
(Printed name and title)

EXECUTED on this 20th day of December 2004, by a person having the authority to bind the Comptroller contractually.

Texas Comptroller of Public Accounts
By: 
Billy C. Hamilton, Deputy Comptroller

APPENDIX 1

AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.
NON-DISCLOSURE AGREEMENT

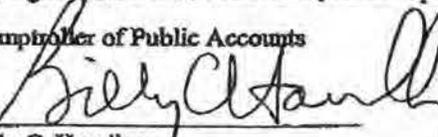
In consideration of the Texas Comptroller of Public Accounts (Comptroller) exercising its option to extend its agreement with Contractor and because of the sensitivity of certain information which may be provided to Contractor, both parties agree that all information regarding Comptroller or gathered, produced, collected or derived from or related to these services or provided to Contractor as a result of Contractor's services to Comptroller (Confidential Information) must remain confidential subject to release only upon prior written approval of Comptroller, and more specifically agree as follows:

1. The Confidential Information may be used by Contractor only to assist Contractor in connection with its contract with Comptroller.
2. Contractor shall not, at any time, use the Confidential Information in any fashion, form, or manner except in its capacity as Contractor to Comptroller.
3. Contractor agrees to maintain the confidentiality of any and all Confidential Information related to this contract in the same manner that it protects the confidentiality of its own proprietary products of like kind.
4. The Confidential Information may not be copied, reproduced, disclosed or distributed without Comptroller's prior written approval.
5. All Confidential Information made available to Contractor, including copies thereof, must be returned to Comptroller upon the first to occur of: (a) completion of the contract, or (b) request by Comptroller.
6. The foregoing does not prohibit Contractor's use of the information (including, but not limited to, ideas, concepts, know-how, techniques and methodologies) (a) previously known to it, (b) independently developed by it, (c) acquired by it from a third party, or (d) which is or becomes part of the public domain through no breach by Contractor of this agreement.
7. This agreement shall become effective as of the date Confidential Information is first made available to Contractor and shall survive the term of the contract and be a continuing requirement.
8. By their execution of this agreement, the parties agree that the measure of damages in the event of a default by Contractor may be difficult or impossible to determine and may vary with the nature of the default involved. The parties further agree that the amounts of liquidated damages set out below represent their best estimate, at the effective date of this agreement, of actual damages which may be suffered by the Comptroller as a direct result of a breach of contract and are not intended by either party to be a penalty. Comptroller in its reasonable discretion may reduce the amount of liquidated damages set out below depending on the nature or severity of the default. In lieu of the liquidated damages and in its reasonable discretion, Comptroller may pursue monetary damages as available to Comptroller under the contract or any applicable law. The breach of this agreement by Contractor shall entitle Comptroller to immediately terminate the corresponding contract upon written notice to Contractor for such breach. Regardless of whether Comptroller elects to terminate such contract upon the breach hereof, Comptroller may require Contractor to pay to Comptroller the sum of \$5,000 as liquidated damages for each substantial breach involving release of Confidential Information. Comptroller does not waive any right to seek additional relief, either equitable or otherwise, concerning any breach of this agreement.

Comptroller of Public Accounts

American Express Travel Related Services Company, Inc.

By:

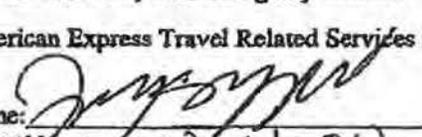

Billy C. Hamilton

Deputy Comptroller

Date:

12/14/2004

Name:


Printed Name: Judy Schonfeld

Title: Vice President

Date:

December 14, 2004

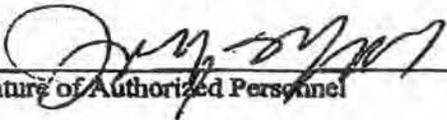
APPENDIX 2

AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.
TEXAS FAMILY CODE CERTIFICATION

If a Contractor is on the Texas Building and Procurement Commission's Centralized Master Bidders List, the Contractor must certify as set forth below by signing and dating this form in the blanks provided. All other contractors must supply all the information required on this form.

Under Section 231.006, Family Code, Contractor certifies that the individual or business entity named in this Contract, bid, proposal, or offer is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.

To comply with Section 231.006, this form must be signed by the person who is authorized to sign and submit a proposal on behalf of a business entity that is subject to Section 231.006, and thereby binds Contractor. This form must be returned with the executed amendment.



Signature of Authorized Personnel

December 14, 2004

Date Signed

Judy Schorfeld

Printed Name of Authorized Personnel

Vice President

Title of Authorized Personnel

If the Contractor submitting this amendment is not on the Texas Building and Procurement Commission's Centralized Master Bidders List, the following information must be completed before the Contractor's amendment will be considered.

Please Circle Business type: *Sole proprietorship partnership corporation other (explain)*

Name and Social Security Number of the individual or sole proprietor and/or each partner, shareholder, or owner with an ownership interest of at least twenty-five percent (25%) of Contractor:

Name

Social Security Number

Name

Social Security Number

Name

Social Security Number

Name

Social Security Number